

OPINION
46-42

January 17, 1946 (OPINION)

CHATTEL MORTGAGES

RE: Discharge of - Removal From File

This is in reply to your recent letter relative to satisfaction and release of chattel mortgages.

You inquire whether or not a chattel mortgage that has been paid and satisfied may be returned to the mortgagor.

Section 35-0412 of the North Dakota Revised Code of 1943 provides that the register of deeds must keep mortgages of personal property on file and must not permit them or any of them to be removed from his office until canceled. It provides further that every mortgage of personal property shall be canceled by the register of deeds upon presentation to him of an acknowledgment of satisfaction thereof signed by the mortgagee or assignee.

Since the statute quoted provides that the register of deeds must not permit such mortgages to be removed from his office until canceled, the implication is that when they are canceled, the register of deeds may return the mortgages which are fully paid and satisfied to the mortgagors. We see no reason why they should be kept in the office after they have been fully paid and satisfied since the records will show that they have been satisfied. However, mortgages which have not been satisfied must be kept in the office as provided by the provisions of section 35-0410.

NELS G JOHNSON

Attorney General